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November 3, 2021

BY ELECTRONIC FILING

Hon. Valerie E. Caproni
United States District Judge
U.S.D.C. for the Southern District of New York
40 Foley Square, Courtroom 443
New York, NY 10007

Re: *City of New York v. Exxon Mobil Corporation, et al.*,
Case No. 1:21-cv-04807-VEC

Dear Judge Caproni:

We represent Defendants Exxon Mobil Corporation and ExxonMobil Oil Corporation in the above-captioned matter and submit this letter on behalf of all Defendants in response to the Court's Order to Show Cause as to whether this action should be stayed pending the Second Circuit's decision in *Connecticut v. Exxon Mobil Corporation*, No. 21-1446 (2d Cir. Oct. 5, 2021).¹ See Dkt. 55. Plaintiff did not take a firm position in its October 19 response—simply noting that the motion to remand is “fully briefed and ready

¹ This submission does not operate as an admission of any factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative defense, claim, or objection, including lack of personal jurisdiction, insufficient process, or insufficient service of process. See, e.g., *Cantor Fitzgerald, L.P. v. Peaslee*, 88 F.3d 152, 157 n.4 (2d Cir. 1996); *Blau v. Allianz Life Ins. Co. of N. Am.*, 124 F. Supp. 3d 161, 171 n.6 (E.D.N.Y. 2015).

to be decided by this Court” but acknowledging that the Court “may prefer to wait for further guidance in *Connecticut* before proceeding” given the similar grounds for removal at issue in that appeal. Dkt. 56.

Defendants submit that a stay is appropriate. As Plaintiff concedes, the pending appeal in *Connecticut* is likely to bear on the issues presented in the instant action. See *LaSala v. Needham & Co.*, 399 F. Supp. 2d 421, 427 (S.D.N.Y. 2005) (cited by Plaintiff). In particular, the Second Circuit is poised to address central issues in this lawsuit—whether federal common law or the federal officer removal statute provides federal jurisdiction over claims akin to those asserted here. Compare Brief of Appellant Exxon Mobil Corp. at 3, *Connecticut*, No. 21-1446 (2d Cir. Oct. 5, 2021), Dkt. 66, with Defs.’ Opp. to Pl.’s Mot. to Remand §§ II, III, Dkt. 47. A stay while the Second Circuit addresses those issues would “potentially absolve [the parties] of the need to litigate a variety of issues otherwise presented here and thus avoid the need for unnecessary litigation.” *In re MPM Silicones, L.L.C.*, No. 15-CV-2280 (NSR), 2017 WL 4386378, at *2 (S.D.N.Y. Oct. 2, 2017).

Staying this action will also best serve the interests of the courts by “promoting judicial efficiency.” *Credit Suisse Sec. (USA) LLC v. Laver*, No. 18 CIV. 2920 (AT), 2019 WL 2325609, at *3 (S.D.N.Y. May 29, 2019). Additionally, a stay may “provide the Court a more solid foundation on which to rule” on several questions raised in Plaintiff’s motion. *Mount v. PulsePoint, Inc.*, No. 13 Civ. 6592 (NRB), 2014 WL 902965, at *2 (S.D.N.Y. Mar. 5, 2014). In light of this posture and Plaintiff’s acknowledgment of the valid reasons for the Court’s contemplated stay, both the interests of the parties and the public interest would best be served by a stay.

For these reasons, Defendants submit that this action should be stayed pending issuance of the mandate in *Connecticut*.

Respectfully submitted,

/s/ Justin Anderson

Justin Anderson

cc: All counsel via ECF